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CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

GREGORY SPOTSWOOD,

Plaintiff,

vs.

HARTFORD LIFE AND ACCIDENT
INSURANCE COMPANY,

Defendant.

CIV. 14-5034

COMPLAINT

Plaintiff Gregory Spotswood, through undersigned counsel, respectfully submits his Complaint in this matter and alleges as follows:

PARTIES

1. Plaintiff, Gregory Spotswood, is an individual, citizen and resident of the State of South Dakota, residing therein at Spearfish, South Dakota.

2. Defendant, Hartford Life and Accident Insurance Company, is a corporation and an insurance company duly organized and existing under the laws of a state other than South Dakota with its principal place of business for purposes of service of process located at 200 Hopmeadow Street, Simsbury, CT 06089.

3. At all times relevant hereto, Defendant Hartford Life and Accident Insurance Company was duly registered and authorized to do insurance business in the State of South Dakota and regularly conducted substantial insurance business in the state.

JURISDICTION AND VANUE

4. On or about April 1, 2009, and at all relevant times thereafter, Plaintiff Gregory Spotswood was an employee of Wal-Mart Stores, Inc., insured under Group Long Term Disability Insurance Policy GLT024554205215, a true and correct copy of which policy is attached hereto as Exhibit "A".

5. The policy is part of an ERISA plan.

6. The amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. The court has jurisdiction under 29 U.S.C. § 1132(a) and 28 U.S.C. § 1331, and diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

8. Venue is appropriate in this Court pursuant to 29 U.S.C. § 1132 (e)(2).

CAUSE OF ACTION - ERISA

9. As a result of his cervical disk disease, Plaintiff qualified, was eligible, and did receive payment of long-term total disability benefits from Defendant for disability, as defined under the policy from March 22, 2011, through November 27, 2013, after a determination by the Defendant that Plaintiff had become totally and continuously disabled on March 22, 2011, as a result of his aforesaid injuries.

10. Defendant wrongfully determined that Plaintiff's cerebral vascular accident ("stroke") and the associated symptoms and limitations caused thereby were excluded from consideration by the policy.

11. Defendant has paid no further disability benefits of any kind for the time period after November 27, 2013.

12. Plaintiff has suffered disability as defined under the policy and has been totally and continuously not working.

13. As a result thereof, it is averred that Plaintiff has been unable to perform any occupation for which he is reasonably fitted by education, training, or experience and thus meets the definition under the policy of total disability.

14. Plaintiff has performed all the conditions of the policy to be performed on his part.

15. Under the terms of the policy, Defendant is liable to Plaintiff for disability benefits from November 27, 2013, which amount plus interest from the date of judgment plus costs are due and payable as a result of Defendant's failure to pay benefits under the policy.

16. Defendant violated ERISA and the policy provisions by wrongfully denying Plaintiff benefits under the policy.

17. Plaintiff has exhausted his administrative remedies under the policy.

WHEREFORE, Plaintiff Gregory Spotswood prays:

1. For recovery of benefits due under the terms of the plan, to enforce her rights under the terms of the plan, and to clarify her right to future benefits under the terms of the plan;

2. For prejudgment interest, reasonable attorney's fees, and costs;
and

3. For such other and further relief as the Court deems just.

Dated this 6th day of May, 2014.

BEARDSLEY, JENSEN & VON WALD,
Prof. L.L.C.

By: _____


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